

A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

January 4, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated November 11, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

At this time I am contacting you to request a sales tax ruling on products which we plan to sell in the future. The first is a variety of light weight ramps which maybe be attached to a vehicle or installed in a threshold of a handicapped person's home. They will be sold directly to the handicapped person.

The second item is a series of scooters which will be sold directly to the handicapped user.

I have enclosed literature for both products to aid in your review. Your prompt assistance in resolving these tax issues is appreciated. You may contact me at #### should you have any additional questions.

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided.

Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See the enclosed copy of 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medicine or drug is defined as any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate.

In general, in order to qualify as a medical appliance, the product must directly substitute for a malfunctioning part of the body. Some of the products specifically listed in the regulation as qualifying for the reduced rate are home

glucose monitors, home blood glucose test strips and related supplies used to treat human diabetes. Other products that directly substitute for a malfunctioning part of the body include urological catheters, leg bags, ostomy pouches and drain bags, and mastectomy prosthetic devices such as forms and bras. Supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. Sterile dressings, bandages and gauze do qualify for the reduced rate.

Generally, portable wheelchair ramps do not qualify for the low rate of tax afforded medical appliances because they do not correct a functioning part of the body and do not directly substitute for a malfunctioning part of the body. While items such as ramps are of assistance to those with physical disabilities, they do not fall within the definition of medical appliance and as a result are subject to the normal rate of tax of 6.25% plus applicable local taxes.

Please note however, that Section 20 of Public Act 89-359, effective August 17, 1995, provides that with regard to "modifications to a motor vehicle for the purpose of rendering it usable by a disabled person . . . the tax is imposed at the rate of 1%" (see 35 ILCS 120/2-10). Section 130.310(e) further explains the application of this statutory language. It states, in part, that "[t]he low rate applies to modifications which enable a disabled person to drive a vehicle, or which assist in the transportation of disabled persons." The modifications must be made to the motor vehicle and be attached permanently. "Examples of such modifications include, but are not limited to, special steering, braking, shifting, or acceleration equipment, or equipment which modifies the vehicle for accessibility, such as a chair lift." See, 86 Ill. Adm. Code 130.310(e)

Regarding motorized scooters, Section 130.310(c)(2) states that wheelchairs qualify for the low rate of tax as medical appliances. This has been interpreted to include electric wheelchairs. However, the low rate has not generally been extended to power operated vehicles. Whether motorized scooters qualify for the exemption would depend upon how they were used and by whom. We are unable to make this determination in the context of a general information letter.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.